

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LOCAL 513, INTERNATIONAL UNION)
OF OPERATING ENGINEERS,)
AFL-CIO, et al.,)
)
Plaintiffs,)
)
vs.)
)
INVISION EXCAVATING &)
CONTRACTING, LLC,)
)
Defendant.)

Case No. 4:18CV01278 AGF

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs' motions for default judgment (ECF Nos. 24, 26) against Defendant InVision Excavating & Contracting, Inc. Plaintiffs are the union and trustees of various employee benefit plans. Plaintiffs filed this action to recover delinquent contributions and liquidated damages owed to them under the Employee Retirement Income Security Act, 29 U.S.C. § 1132, and the Labor Management Relations Act, 29 U.S.C. §185.

Clerk's Entry of Default was entered against Defendant on November 6, 2018. ECF No. 8. Plaintiffs subsequently sought documents necessary for a payroll accounting, which Defendant ultimately produced. ECF Nos. 20 & 21. Plaintiffs now seek judgment against Defendant in the amounts of \$138,730.81 in principal, \$28,083.87 in liquidated damages, \$41.93 in outstanding variances, and \$5,906.96 in attorney fees and costs, for a total of \$172,763.57. Plaintiffs have provided affidavits and exhibits supporting these

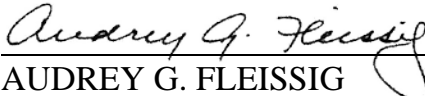
amounts. ECF No. 24, Exhibits 2 & 7, ECF No. 26, Ex. 1, ECF No. 27.

“Where default has been entered, the allegations of the complaint, except as to the amount of damages, are taken as true.” *Carpenters’ Dist. Council of Greater St. Louis and Vicinity v. Hard Rock Foundations, LLC*, No. 4:13CV01549 AGF, 2013 WL 6037097, at *2 (E.D. Mo. Nov. 14, 2013) (citation omitted). “In determining the amount of damages for a default judgment in an ERISA case brought by a plan against an employer, the court may rely on detailed affidavits or documentary evidence to determine the appropriate sum for the default judgment.” *Painters Dist. Council 2 v. Grau Contracting, Inc.*, No. 4:10CV02339 AGF, 2012 WL 2848708, at *1 (E.D. Mo. July 11, 2012) (internal quotation omitted). A plaintiff is entitled to recover all of the principal contributions owed pursuant to the payroll examination, plus liquidated damages totaling twenty percent of the delinquency, interest, attorneys’ fees, and costs. *See* 29 U.S.C. § 1132(g)(2)(E). Damages must be proven by a preponderance of the evidence. *See Iron Workers St. Louis Dist. v. Arrow Fence, Inc.*, No. 4:11CV02019 AGF, 2013 WL 991658, at *2 (E.D. Mo. Mar. 13, 2013).

Upon review of the record, the Court finds that Plaintiffs have provided sufficient evidence to support their motion.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motions for default judgment are **GRANTED**. ECF Nos. 24 & 26. A Judgment against Defendant in the amount of \$172,763.57 shall accompany this Memorandum and Order



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 30th day of January, 2020.